

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Connecticut on the following

☐ Trademarks or ☒ Patents (☐ the patent action involves 35 U.S.C. § 292)

DOCKET NO. 3:11cv202 RNC	DATE FILED 2/8/2011	U.S. DISTRICT COURT Connecticut
PLAINTIFF BEEKLEY CORP		DEFENDANT IZI MEDICAL PRODUCTS, INC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,781,041		SEE COPY OF COMPLAINT
2 6,985,558		
3 7,263,159		
4 6,714,626		
5		

In the above--entitled case, the following patent(s)/ trademark(s) have been included

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK			
1					
2					
3					
4					
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In the above--entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK ROBERTA D. TABORA	(BY) DEPUTY CLERK ANGELA BLUE 	DATE 2/8/2011
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Beekley Corp. requests that Judgment against Defendant IZI be entered as follows:

- A. Judgment for Beekley that the '041 patent is infringed by IZI;
- B. Judgment for Beekley that the '558 patent and the '159 patent are infringed by IZI;
- C. Judgment for Beekley that the '628 patent is infringed by IZI;
- D. Judgment for Beekley that the Color Pink Trademark and '429 Registration therefor are infringed by IZI;
- E. Judgment that IZI has violated the Connecticut Unfair Trade Practices Act, Connecticut General Statute § 42-110g(a).
- F. Judgment against IZI, its officers ,agents, servants, employees, attorneys, and/or those persons in active concert or participation with any of them, preliminarily and permanently restraining and enjoining such officers, agents, servants, employees, attorneys, and/or persons in active concert or participation with any of them from directly or indirectly infringing the '041 patent, the '558 patent, the '159 patent, the '628 patent, and the Color Pink Trademark and '429 registration therefor;
- G. IZI be ordered to send written notification to their customers of their infringing activities, advising of the entry of the injunction and order set forth above.;
- H. An accounting and judgment for damages resulting from IZI's infringement of the '041 patent, the '558 patent, the '159 patent and '628 patent pursuant to 35 U.S.C. § 284;
- I. Judgment for treble damages pursuant to 35 U.S.C. § 284;

J. An accounting and judgment for damages resulting from IZI's infringement of the Color Pink Trademark and '429 registration therefor pursuant to 15 U.S.C. § 1117(a);

K. Judgment for treble damages pursuant to 15 U.S.C. § 1117(a);

L. An accounting and judgment for compensatory and punitive damages pursuant to Connecticut General Statute § 42-110g(a);

M. Judgment for Beekley assessing pre-judgment and post-judgment interest and costs against IZI, together with an award of such interest and costs, pursuant to 35 U.S.C. § 284;


N. Judgment for Beekley awarding attorneys' fees and costs incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285, 15 U.S.C. § 1117(a) and Connecticut General Statutes § 35-35 and §42-110g(d); and

O. Such other relief as the court may deem just and proper.

Dated: February 7, 2011

THE PLAINTIFF
BEEKLEY CORP.

By



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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

BEEKLEY CORPORATION)	
)	
	Plaintiff,	
v.)	CIVIL ACTION NO.:
)	
IZI MEDICAL PRODUCTS, INC.)	
)	
	Defendant.	
)	
)	

COMPLAINT

Plaintiff Beekley Corporation ("Beekley"), by and through its attorneys, hereby alleges for its complaint against IZI Medical Products, Inc. ("IZI") as follows:

THE PARTIES

1. Beekley is a corporation organized and existing under the laws of the State of Connecticut, with a principal place of business at One Prestige Lane, Bristol, Connecticut.
2. Upon information and belief, IZI is a corporation organized and existing under the laws of the State of Maryland with a place of business at 5 Easter Court, Owings Mills, Maryland.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code, under the trademark laws of the United States, 15 U.S.C. § 1051 et seq., and under related statutory causes of action.
4. This Court has subject matter jurisdiction over the federal claims alleged herein pursuant to 28 U.S.C. §§ 1331, 1337, 1338(a) and 28 U.S.C. § 2201. The Court has

subject matter jurisdiction under the state law claims alleged herein under 28 U.S.C. § 1332, because Beekley and IZI are citizens of different states and the amount in controversy exceeds the sum of \$75,000, under 28 U.S.C. § 1338(b), because the claims are joined with the substantial and related claims under the patent and trademark laws alleged herein, and under 28 U.S.C. § 1367, because the claims arise from a nucleus of operative facts common to the federal claims.

5. The Court has personal jurisdiction over the Defendant IZI because it regularly transacts and conducts business in this state and judicial district, actively and purposefully directs its business activities towards this state and judicial district and citizens thereof, and has performed acts of patent infringement and trademark infringement in this state and judicial district.

6. Venue is proper in this District, pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 7,781,041)

7. Beekley incorporates by reference herein the allegations of paragraphs 1-6 as if fully set forth herein.

8. Beekley is the assignee of U.S. Patent No. 7,781,041 entitled *Tattoo Cover and Related Method* ("the '041 patent"). A copy of the '041 patent is attached as Exhibit A to this Complaint.

9. The '041 patent describes and claims a cover for temporary tattoos utilized in radiation therapy treatments.

10. Upon information and belief, IZI is infringing and has infringed Beekley's patent rights under the '041 patent, and is contributing to and is inducing, and has contributed to and has induced, the infringement thereof by others, by making, using, offering to sell and/or selling covers for temporary tattoos used in radiation therapy that are covered by one or more claims of the '041 patent, including without limitation its Protect-A-Mark™ covers catalog numbers IZI 1005 and IZI 1006, without permission or authorization from Beekley.

11. Upon information and belief, IZI will continue to infringe the '041 patent by making, using, offering to sell and/or selling products covered by one or more claims of the '041 patent.

12. Upon information and belief, IZI will continue to infringe the '041 patent unless and until it is enjoined by this Court to stop the infringement.

13. Upon information and belief, IZI's infringement of the '041 patent has been and continues to be taking place with full knowledge of the '041 patent.

14. Upon information and belief, IZI's infringement of the '041 patent has been and continues to be willful.

15. Beekley has and will be damaged and harmed by IZI's activities.

16. Beekley will be irreparably harmed unless IZI's activities are enjoined.

17. Beekley has no adequate remedy at law.

SECOND CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 6,985,558 and U.S. Patent No. 7,263,159)

18. Beekley incorporates by reference herein the allegations of paragraphs 1-6 as if fully set forth herein.

19. Beekley is the assignee of U.S. Patent No. 6,985,558 entitled *Intermediate Density Marker and a Method Using Such a marker for Radiographic Examination* ("the '558 patent") and U.S. Patent No. 7,263,159 entitled *Intermediate Density Marker and a Method Using Such a marker for Radiographic Examination* ("the '159 patent"). Copies of the '558 and '159 patents are attached as Exhibits B and C to this Complaint.

20. The '558 and '159 patents describe and claim intermediate density markers for use in radiographic examinations such as mammography.

21. Upon information and belief, IZI is infringing and has infringed Beekley's patent rights under the '558 patent and/or the '159 patent, and is contributing to and is inducing, and has contributed to and has induced, the infringement thereof by others, by making, using, offering to sell and/or selling intermediate density markers for use in radiographic examinations such as mammography that are covered by one or more claims of the '558 patent and/or the '159 patent, including without limitation IZI's Indicator™ radiolucent markers catalog numbers RM2104, RM2105, RM2106, RM2109, RM2110, RM2111, RM2114 and RM2117, without permission or authorization from Beekley.

22. Upon information and belief, IZI will continue to infringe the '558 patent and/or the '159 patent by making, using, offering to sell and/or selling products covered by one or more claims of the '558 patent and/or the '159 patent.

23. Upon information and belief, IZI will continue to infringe the '558 patent and/or the '159 patent unless and until it is enjoined by this Court to stop the infringement.

24. Upon information and belief, IZI's infringement of the '558 patent and/or the '159 patent has been and continues to be taking place with full knowledge of the '558 patent and the '159 patent.

25. Upon information and belief, IZI's infringement of the '558 patent and/or the '159 patent has been and continues to be willful.
26. Beekley has and will be damaged and harmed by IZI's activities.
27. Beekley will be irreparably harmed unless IZI's activities are enjoined.
28. Beekley has no adequate remedy at law.

THIRD CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 6,714,628)

29. Beekley incorporates by reference herein the allegations of paragraphs 1-6 as if fully set forth herein.

30. Beekley is the assignee of U.S. Patent No. 6,714,628 entitled *Marking Grid for Radiographic Imaging, and Method of Making Such a Grid* ("the '628 patent"). A copy of the '628 patent is attached as Exhibit D to this Complaint.

31. The '628 patent describes and claims marking grids for use in radiographic examinations.

32. Upon information and belief, IZI is infringing and has infringed Beekley's patent rights under the '628 patent, and is contributing to and is inducing, and has contributed to and has induced, the infringement thereof by others, by making, using, offering to sell and/or selling marking grids that are covered by one or more claims of the '628 patent, including without limitation its IZI CT Biopsy Grid Gauge and its Needle Guide, without permission or authorization from Beekley.

33. Upon information and belief, IZI will continue to infringe the '628 patent by making, using, offering to sell and/or selling products covered by one or more claims of the '628 patent.

34. Upon information and belief, IZI will continue to infringe the '628 patent unless and until it is enjoined by this Court to stop the infringement.

35. Upon information and belief, IZI's infringement of the '628 patent has been and continues to be taking place with full knowledge of the '628 patent.

36. Upon information and belief, IZI's infringement of the '628 patent has been and continues to be willful.

37. Beekley has and will be damaged and harmed by IZI's activities.

38. Beekley will be irreparably harmed unless IZI's activities are enjoined.

39. Beekley has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF
(Violation of the Lanham Act, 15 U.S.C. § 1125(a))

40. Beekley repeats and realleges each of the allegations contained in paragraphs 1-39 of this Complaint as if fully set forth herein.

41. Since at least 1992, Beekley has adopted and extensively used its Color Pink Trademark as applied to the front face of medical imaging markers, and to illustrations and representations of the markers applied to the packaging, as an identifier of source for such markers (the "Color Pink Trademark"). Beekley has built up substantial goodwill and customer recognition and identification in the Color Pink Trademark for its imaging markers through extensive distribution and sale of imaging markers bearing the Color Pink Trademark, and otherwise through extensive promotion of the Color Pink Trademark, throughout the United States.

42. Beekley is the owner of all right, title and interest to U.S. Trademark Registration No. 2,708,429 ("the '429 Registration") of the Color Pink Trademark. A copy of the '429 Registration is attached hereto as Exhibit E.

43. IZI has misappropriated and applied the Color Pink Trademark, and/or confusingly similar variations thereof, to its infringing imaging markers, including without limitation its Indicator™ radiolucent markers catalog numbers RM2104, RM2105, RM2106, RM2109, RM2110, RM2111, RM2114 and RM2117 (the "Pink Infringing Markers").

44. The promotion, sale, distribution and use of the Pink Infringing Markers has and is likely to continue to cause confusion or mistake or to deceive the relevant public as to the source or origin of the Pink Infringing Markers, or otherwise to suggest an affiliation or connection between the Pink Infringing Markers and Beekley or Beekley's Color Pink Trademark. By such actions and conduct, IZI has violated Section 43(a) of the Lanham Act.

45. Upon information and belief, IZI's misappropriation and use of the Color Pink Trademark or confusingly similar variations thereof has been and is willful, and will continue unless enjoined by this Court. Beekley has suffered, and will continue to suffer, irreparable injury as a result of this willful infringement. As a result, Beekley is entitled to damages for infringement and treble damages, as well as a permanent injunction against further infringement.

FIFTH CLAIM FOR RELIEF

Violation of the Connecticut Unfair Trade Practices Act C.G.S.A. § 41-110a et seq.

46. Paragraphs 1-45 are repeated and realleged herein.

47. At all times material to this action, IZI has engaged in trade or commerce in the State of Connecticut within the meaning of the Connecticut Unfair Trade Practices Act

("CUTPA"), Connecticut General Statutes §§ 42-110a et seq. IZI competes against Beekley in the sale and distribution of markers for medical imaging throughout the State of Connecticut.

48. By committing the acts alleged hereinabove, IZI has engaged in unfair methods of competition and unfair and deceptive acts and practices in the conduct of its trade within the State of Connecticut in violation of Connecticut General Statutes, Section 42-110a et seq., causing Beekley damages and loss of profits. IZI's unlawful conduct will continue to damage Beekley unless enjoined by this Court, and Beekley has no adequate remedy at law.

49. A copy of this Complaint is being mailed to the Attorney General and the Commissioner of Consumer Protection of the State of Connecticut pursuant to Connecticut General Statute § 42-110g(c).

DEMAND FOR JURY TRIAL

Plaintiff Beekley Corp. respectfully requests a trial by jury pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, of any and all issues triable of right or operation of law or statute by a jury.